

PART 1955 - PROPERTY MANAGEMENT

Subpart B - Management of Property

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EXHIBITS TO SUBPART B

- Exhibit A - Memorandum of Understanding between the Federal Emergency Management Agency and Rural Development.
- Exhibit B - Notification of Tribe of Availability of Farm Property for Purchase.
- Exhibit C - Cooperative Agreement. (Example)
- Exhibit D - Fact Sheet - The Federal Interagency Task Force on Food and Shelter for the Homeless.

PART 1955 - PROPERTY MANAGEMENT

Subpart B - Management of Property

§ 1955.51 Purpose.

This subpart delegates authority and prescribes policies and procedures for the Rural Housing Service (RHS), Rural Business-Cooperative Service (RBS), the Water and Waste programs of the Rural Utilities Service (RUS), and Farm Service Agency (FSA), herein referred to as "Agency." This subpart does not apply to RHS single family housing loans or community program loans sold without insurance to the private sector. These community program loans will be serviced by the private sector and future revisions to this subpart no longer apply to such loans. This subpart does not apply to the Rural Rental Housing, Rural Cooperative Housing, or Farm Labor Housing Program of RHS. This subpart covers: (Revised 02-24-05, SPECIAL PN.)

- (a) Management of real property which has been taken into custody by the respective Agency after abandonment by the borrower;
- (b) Management of real and chattel property which is in Agency inventory; and
- (c) Management of real and chattel property which is security for a guaranteed loan liquidated by an Agency (or which the Agency is in the process of liquidating).

§ 1955.52 Policy.

Inventory and custodial real property will be effectively managed to preserve its value and protect the Government's financial interests. Properties owned or controlled by the respective Agency will be maintained so that they are not a detriment to the surrounding area and they comply with State and local codes. Generally, RHS will continue operation of Multi-Family Housing (MFH) projects which are acquired or taken into custody. Servicing of repossessed or abandoned chattel property is covered in Subpart A of Part 1962 of this chapter, and management of inventory chattel property is covered in § 1955.80 of this subpart.

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§ 1955.53 Definitions.

As used in this subpart, the following definitions apply:

CONACT or CONACT property. Property acquired or sold pursuant to the Consolidated Farm and Rural Development Act (CONACT). Within this subpart, it shall also be construed to cover property which secured loans made pursuant to the Agriculture Credit Act of 1978; the Emergency Agricultural Credit Adjustment Act of 1978; the Emergency Agricultural Credit Act of 1984; the Food Security Act of 1985; and other statutes giving agricultural lending authority to the respective Agency.

Contracting Officer (CO). CO means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes authorized representatives of the CO acting within the limits of their authority as delegated by the CO.

Custodial property. Borrower-owned real property and improvements which serve as security for an Agency loan, have been abandoned by the borrower, and of which the respective Agency has taken possession.

Farmer program loans. This includes Farm Ownership (FO), Soil and Water (SW), Recreation (RL), Economic Opportunity (EO), Operating (OL), Emergency (EM), Economic Emergency (EE), Special Livestock (SL), Softwood Timber (ST) loans, and Rural Housing loans for farm service buildings (RHF).

Government. The United States of America, acting through the respective Agency, U.S. Department of Agriculture.

Indian reservation. All land located within the limits of any Indian reservation under the jurisdiction of the United States notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a federally recognized Indian tribe in the State of Oklahoma; or all Indian allotments the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a federally recognized Indian tribe.

Inventory property. Real and chattel property and related rights to which the Government has acquired title.

Loans to individuals. Farmer Program loans, as defined above, whether to individuals or entities; Land Conservation and Development (LCD); and Single-Family Housing (SFH), including both Sections 502 and 504 loans.

§ 1955.53 (Con.)

Loans to organizations. Community Facility (CF), Water and Waste Disposal (WWD), Association Recreation, Watershed (WS), Resource Conservation and Development (RC&D), loans to associations for Irrigation and Drainage and other Soil and Water Conservation measures, loans to Indian Tribes and Tribal Corporations, Shift-in-Land-Use (Grazing Associations) Business and Industrial (B&I) to both individuals and groups, Rural Development Loan Fund (RDLF), Intermediary Relending Program (IRP), Nonprofit National Corporation (NNC), Economic Opportunity Cooperative (EOC), Rural Housing Site (RHS), Rural Cooperative Housing (RCH), and Rural Rental Housing (RRH) and Labor Housing (LH) to both individuals and groups. The housing-type loans identified here are referred to in this subpart collectively as MFH loans.

Nonprogram (NP) property. SFH and MFH property acquired pursuant to the Housing Act of 1949, as amended, that cannot be used by a borrower to effectively carry out the objectives of the respective loan program; for example, a dwelling that cannot be feasibly repaired to meet the requirements for existing housing as described in 7 CFR part 3550. It may contain a structure which would meet program standards; however, is so remotely located it would not serve as an adequate residential unit or an older house which is excessively expensive to heat and/or maintain for a very-low or low-income homeowner. (Revised 01-23-03, SPECIAL PN.)

§ 1955.53 (Con.)

Nonrecoverable cost. is a contractual or noncontractual program loan cost expense not chargeable to a borrower, property account, or part of the loan subsidy. (Revised 08-05-98, PN 294.)

Office of the General Counsel (OGC). The OGC, U.S. Department of Agriculture, refers to the Regional Attorney or Attorney-in-Charge in an OGC field office unless otherwise indicated.

Program property. SFH and MFH inventory property that can be used to effectively carry out the objectives of their respective loan programs with financing through that program. Inventory property located in an area where the designation has been changed from rural to nonrural will be considered as if it were still in a rural area.

Recoverable cost is a contractual or noncontractual program loan cost expense chargeable to a borrower, property account, or part of the loan subsidy. (Revised 08-05-98, PN 294.)

Servicing official. For loans to individuals as defined in this section, the servicing official is the County Supervisor. For insured B&I loans, the servicing official is the State Director. For Rural Development Loan Fund and Intermediary Relending Program loans, the servicing official is the Director, Business and Industry Division. For Nonprofit National Corporations loans, the servicing official is Director, Community Facility Division. For all other types of loans, the servicing official is the District Director.

Suitable property. For FSA real inventory property, real property that can be used for agricultural purposes including those farm properties that may be used as a start up or add-on parcel of farmland. It would also include a residence or other off-farm site that could be used as a basis for a farming operation. For agencies other than FSA, real property that could be used to carry out the objectives of the Agency's loan program with financing provided through that program. (Revised 08-20-97, PN 280.)

Surplus property. For FSA inventory property, real property that cannot be used for agricultural purposes. For other Agencies, property that cannot be used to carry out the objectives of financing available through the applicable loan program. (Revised 08-20-97, PN 280.)

§ 1955.54 Redelegation of authority.

Authorities will be redelegated to the extent possible, consistent with program objectives and available resources.

(a) Any authority in this subpart which is specifically provided to the Administrator or to an Assistant Administrator may only be delegated to a State Director. The State Director cannot redelegate such authority.

(b) Except as provided in paragraph (a) of this section, the State Director may redelegate, in writing, any authority delegated to the State Director in this subpart, unless specifically excluded, to a Program Chief, Program Specialist, or Property Management Specialist on the State Office staff.

(c) The District Director may redelegate, in writing, any authority delegated to the District Director in this subpart to an Assistant District Director or District Loan Specialist. Authority of District Directors in this subpart applies to Area Loan Specialists in Alaska and the Director for the Western Pacific Territories.

(d) The County Supervisor may redelegate, in writing, any authority delegated to the County Supervisor in this subpart to an Assistant County Supervisor, GS-7 or above, who is determined by the County Supervisor to be qualified. Authority of County Supervisors in this subpart applies to Area Loan Specialists in Alaska, Island Directors in Hawaii, the Director for the Western Pacific Territories, and Area Supervisors in the Western Pacific Territories and American Samoa.

§ 1955.55 Taking abandoned real or chattel property into custody and related actions.

(a) Determination of abandonment. (Multi-Family housing type loans will be handled in accordance with 7 CFR part 3560, Subpart J.) When it appears a borrower has abandoned security property, the servicing official shall make a diligent attempt to locate the borrower to determine what the borrower's intentions are concerning the property. This includes making inquiries of neighbors, checking with the Postal Service, utility companies, employer(s), if known, and schools, if the borrower has children, to see if the borrower's whereabouts can be determined and an address obtained. A State supplement may be issued if necessary to further define "abandonment" based on State law. If the borrower is not occupying or is not in possession of the property but has it listed for sale with a real estate broker or has made other

§ 1955.55(a) (Con.)

arrangements for its care or sale, it will not be considered abandoned so long as it is adequately secured and maintained. Except for borrowers with Farmer Program loans, if the borrower has made no effort to sell the property and can be located, an opportunity to voluntarily convey the property to the Government will be offered the borrower in accordance with § 1955.10 of Subpart A of this part. In farmer program cases, borrowers must receive Attachments 1 and 2 of Exhibit A of Subpart S of Part 1951 of this chapter and any appeal must be concluded before any adverse action can be taken. The County Supervisor will send these forms to the borrower's last known address as soon as it is determined that the borrower has abandoned security property. (Revised 02-24-05, SPECIAL PN.)

(b) Taking security property into Agency custody. When security property is determined to be abandoned, the running record in the borrower's file will be fully documented with the facts substantiating the determination of abandonment, and the servicing official shall proceed as follows without delay:

(1) For loans to individuals (except those with Farmer Program loans), if there are no prior liens, or if a prior lienholder will not take the measures necessary to protect the property, the County Supervisor shall take custody of the property, and a problem case report will be prepared recommending foreclosure in accordance with § 1955.15 of Subpart A of this part, unless the borrower can be located and voluntary liquidation accomplished. Farmer Program loan borrowers will be sent the forms listed in paragraph (a) of this section and the provisions of § 1965.26 of Subpart A of Part 1965 of this chapter will be followed.

(2) For MFH loans, if there are no prior liens, the District Director will immediately notify the State Director, who will request guidance from OGC and may also request advice from the National Office. The State Director, with the advice of OGC, will advise the borrower by writing a letter, certified mail, return receipt requested, at the address currently used by Finance Office, outlining proposed actions by Agency to secure, maintain, and operate the project.

(i) If the unpaid loan balance plus recoverable costs do not exceed the State Director's loan approval authority, the State Director will authorize the District Director to take custody of the property, make emergency repairs if necessary to protect the Government's interest, and will advise how the property is to be managed in accordance with 7 CFR part 3560.
(Revised 02-24-05, SPECIAL PN.)

RD Instruction 1955-B
§ 1955.55(b) (2) (Con.)

(ii) If the unpaid loan balance plus recoverable costs exceeds the State Director's loan approval authority, the State Director will refer the case to the National Office for advice on emergency actions to be taken. The docket will be forwarded to the National Office with detailed recommendations for immediate review and authorization for further action, if requested by the MFH staff.

(iii) Costs incurred in connection with procurement of such things as management services will be handled in accordance with RD Instruction 2024-A (available in any Agency office).

(iv) The District Director will prepare a problem case report to initiate foreclosure in accordance with § 1955.15 of Subpart A of this part and submit the report to the State Director along with a proposed plan for managing the project while liquidation is pending.

(3) For organization loans other than MFH, if there are no prior liens, the District Director will immediately notify the State Director that the property has been abandoned and recommend action which should be taken to protect the Government's interest. After obtaining the advice of OGC and the appropriate staff in the National Office, the State Director may authorize the District Director to take custody of the property and give instructions for immediate actions to be taken as necessary. The District Director will prepare a Report on Servicing Action (Exhibit A of Subpart E of Part 1951 of this chapter) recommending that foreclosure be initiated in accordance with § 1955.15 of Subpart A of this part and submit the report to the State Director, along with a proposed plan for management and/or operation of the project while liquidation is pending.

(c) Protecting custodial property. The Agency official who takes custody of abandoned property shall take the actions necessary to secure, maintain, preserve, lease, manage, or operate the property.

(1) Nonsecurity personal property on premises. If a property has been abandoned by a borrower who left nonsecurity personal property on the premises, the personal property will not be removed and disposed of before the real property is acquired by the Government. If the premises are in a condition which presents a fire, health or safety hazard, but also contains items of value, only the trash and debris presenting the hazard will be removed. The servicing official may request advice from the State Director as necessary. The servicing official shall check for liens on nonsecurity personal property left on abandoned premises. If there is a known lienholder(s), the lienholder(s) will be notified by certified mail, return receipt requested, that the borrower has abandoned the property and that Agency has taken the real property into custody.

§1955.55 (c) (1) (Con.)

Actions by Agency must not damage or jeopardize livestock, growing crops, stored agricultural products, or any other personal property which is not Agency security.

(2) Repairs to custodial property. Repairs to custodial property will be limited to those which are essential to prevent further deterioration of the property. Expenditures in excess of an aggregate of \$1,000 per property must have prior approval of the State Director.

(d) Emergency advances where liquidation is pending. Although security property may not be defined as abandoned in accordance with paragraph (a) of this section, if the borrower is not occupying the property and refuses or is unable to protect the security property, the servicing official is authorized to make expenditures necessary to protect the Government's interest. This would include, but is not limited to, securing or winterizing the property or making emergency repairs to prevent deterioration. Expenditures will be handled in accordance with paragraph (e) of this section. Situations where this authority may be used include, but are not limited to, where a borrower has a sale pending or when a voluntary conveyance is in process.

(e) Income and costs. Income received from the property will be handled in accordance with RD Instruction 1951-B (available in any Agency office) and applied to the borrower's account as an extra payment. Expenditures will be charged to the borrower's account as a recoverable cost. Costs will be paid in accordance with RD Instruction 2024-A (available in any Agency office).

(Revised 08-13-92, SPECIAL PN.)

(f) Off-site procurements. Circumstances may require off-site procurement action(s) to be taken by Agency to protect custodial, security or inventory property from damage or destruction and/or protect the Government's investment in the property. Such procurements may include, but are not limited to construction or reconstruction of roads, sewers, drainage work or utility lines. This type work may be accomplished either through Agency procurement or cooperative agreement. However, if Agency is obtaining a service or product for itself only, it must be a procurement and any such actions will be in accordance with RD Instruction 2024-A (available in any Agency office). Funding will come from the appropriate insurance fund. (Added 6-12-89, SPECIAL PN)

(1) Conditions for procurement. Such expenditures may be made only when all of the following conditions are met:

(i) A determination is made that failure to procure work would likely result in a property loss greater than the expenditure;

(ii) There are no other feasible means (including cooperative agreements) to accomplish the same result; (Revised 08-13-92, SPECIAL PN.)

(iii) The recovery of such advance(s) is not authorized by security instruments in the case of security or custodial property (no such limitation exists for inventory property);

(iv) Written documentation supporting subparagraphs (i), (ii) and (iii) has been obtained from the authorized program official;

(v) Approval has been obtained from the appropriate Assistant Administrator.

(2) Direct procurement action. Where direct procurement action is contemplated, an opinion must be obtained from the Regional Attorney that:

(i) Agency has the authority to enter the off-site property to accomplish the contemplated work, or

(ii) A specific legal entity has authority to grant an easement (right-of-way) to Agency for the contemplated work and such an easement, in a form approved by the Regional Attorney, has been obtained.

(3) Cooperative agreements. Cooperative agreements between Agency and other entities may be made to accomplish the requirement where the principal purpose is to provide money, property, services or items of value to state or local governments or other recipients to accomplish a public purpose. Exhibit C of this subpart (available in any Agency office) is an example of a typical cooperative agreement. A USDA handbook providing detailed guidance for all parties is available from the USDA - Office of Operations and Finance. Although cooperative agreements are not a contracting action, the authority, responsibility and administration of these agreements will be handled consistent with contracting actions.

(4) Consideration of maintenance agreements. Maintenance requirements must be considered in evaluating the economic benefits of off-site procurements. Where feasible, arrangements or agreements should be made with state, local governments or other entities to ensure continued maintenance by dedication or acceptance, letter agreements, or other applicable statutes.

§1955.56 Real property located in Coastal Barrier Resources System (CBRS).

(a) Approval official's scope of authority. Any action that is not in conflict with the limitations in paragraphs (a) (1), (a) (2), or (a) (3) of this section shall not be undertaken until the approval official has consulted with the appropriate Regional Director of the U.S. Fish and Wildlife Service. The Regional Director may or may not concur that the proposed action does or does not violate the provisions of the Coastal Barrier Resources Act (CBRA). Pursuant to the requirements of the CBRA, and except as specified in paragraphs (b) and (c) of this section, no maintenance or repair action may be taken for property located within a CBRS where:

(1) The action goes beyond maintenance, replacement-in-kind, reconstruction, or repair and would result in the expansion of any roads, structures or facilities. Water and waste disposal facilities as well as community facilities may be improved to the extent required to meet health and safety requirements but may not be improved or expanded to serve additional users, patients, or residents;

(2) The action is inconsistent with the purposes of the CBRA; or

(3) The property to be repaired or maintained was initially the subject of a financial transaction that violated the CBRA.

(b) Administrator's review. Any proposed maintenance or repair action that does not conform to the requirements of paragraph (a) of this section must be forwarded to the Administrator for review and approval. Approval will not be granted unless the Administrator determines, through consultation with the Department of the Interior, that the proposed action does not violate the provisions of the CBRA.

(c) Emergency provisions. In emergency situations to prevent imminent loss of life, imminent substantial damage to the inventory property or the disruption of utility service, the approval official may take whatever minimum steps are necessary to prevent such loss or damage without first consulting with the appropriate Regional Director of the U.S. Fish and Wildlife Service. However, the Regional Director must be immediately notified of any such emergency action.

§1955.57 Real property containing underground storage tanks.

Within 30 days of acquisition of real property into inventory, Agency must report certain underground storage tanks to the State agency identified by the Environmental Protection Agency (EPA) to receive such reports. Notification will be accomplished by completing an appropriate EPA or alternate State form, if approved by EPA. A State supplement will be issued providing the appropriate forms required by EPA and instructions on processing same.

(a) Underground storage tanks which meet the following criteria must be reported:

- (1) It is a tank, or combination of tanks (including pipes which are connected thereto) the volume of which is ten percent or more beneath the surface of the ground, including the volume of the underground pipes; and
- (2) It is not exempt from the reporting requirements as outlined in paragraph (b) of this section; and
- (3) The tank contains petroleum or substances defined as hazardous under Section 101(14) of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9601. The State Environmental Coordinator should be consulted whenever there is a question regarding the presence of a regulated substance; or
- (4) The tank contained a regulated substance, was taken out of operation by Agency since January 1, 1974, and remains in the ground. Extensive research of records of inventory property sold before the effective date of this section is not required.

§ 1955.57(a) (Con.)

(4) The tank contained a regulated substance, was taken out of operation by Agency since January 1, 1974, and remains in the ground. Extensive research of records of inventory property sold before the effective date of this section is not required.

(b) The following underground storage tanks are exempt from the EPA reporting requirements:

(1) Farm or residential tanks of 1.100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

(2) Tanks used for storing heating oil for consumptive use on the premises where stored;

(3) Septic tanks;

(4) Pipeline facilities (including gathering lines) regulated under: (i) the Natural Gas Pipeline Safety Act of 1968; (ii) the Hazardous Liquid Pipeline Safety Act of 1979; or (iii) for an intrastate pipeline facility, regulated under State laws comparable to the provisions of law referred to in (i) or (ii) above;

(5) Surface impoundments, pits, ponds, or lagoons;

(6) Storm water or wastewater collection systems;

(7) Flow-through process tanks;

(8) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations; or

(9) Storage tanks situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the tank is situated upon or above the surface of the floor.

(c) A copy of each report filed with the designated State agency will be forwarded to and maintained in the State Office by program area.

(d) Prospective purchasers of Agency inventory property with a reportable underground storage tank will be informed of the reporting requirement, and provided a copy of the form filed by Agency.

(e) In a State which has promulgated additional underground storage tank reporting requirements, Agency will comply with such requirements and a State supplement will be issued to provide necessary guidance.

(f) Regardless of whether an underground storage tank must be reported under the requirements of this section, if Agency personnel detect or believe there has been a release of petroleum or other regulated substance from an underground storage tank on an inventory property, the incident will be reported to the appropriate State Agency, the State Environmental Coordinator and appropriate program chief. These parties will collectively inform the servicing official of the appropriate response action.

§§ 1955.58 - 1955.59 [Reserved]

§ 1955.60 Inventory real property subject to redemption by the borrower.

If inventory property is subject to redemption rights, the State Director, with prior approval of OGC, will issue a State supplement giving guidance concerning the former borrower's rights, whether or not the property may be leased or sold by the Government, payment of taxes, maintenance, and any other items OGC deems necessary to comply with State laws. Routine care and maintenance will be provided according to §1955.64 of this subpart to preserve and protect the property. Repairs are limited to those essential to prevent further deterioration of the property or to remove a health or safety hazard to the community in accordance with § 1955.65(a) of this subpart unless State law permits full recovery of cost of repairs in which case usual policy on repairs is applicable. If the former borrower with redemption rights has possession of the property or has a right to lease proceeds, Agency will not lease the property until the redemption period has expired unless the State Director obtains prior authorization from OGC. Further guidance on sale subject to redemption rights is set forth in § 1955.138 of Subpart C of this Part. (Revised 6-12-89, SPECIAL PN)

§ 1955.61 Eviction of persons occupying inventory real property or dispossession of persons in possession of chattel property.
(Revised 6-12-89, SPECIAL PN)

Advice and assistance will be obtained from OGC when eviction from realty or dispossession of chattel property is necessary. Where OGC has given written authorization, eviction may be effected through State courts rather than Federal courts when the former borrower is involved or through local courts instead of Federal/State courts when the party occupying/possessing the Agency property is not the former borrower. In those cases, a State supplement will be issued to provide explicit instructions. For MFH, eviction of tenants will be handled in accordance with 7 CFR part 3560, Subpart D and with the terms of the tenant's lease. If no written lease exists, the State Director will obtain advice from OGC. (Revised 02-24-05, SPECIAL PN.)

§1955.62

§1955.62 Removal and disposition of nonsecurity personal property from inventory real property.

If the former borrower has vacated the inventory property but left items of value which do not customarily pass with title to the real estate, such as furniture, personal effects, and chattels not covered by an Agency lien, the personal property will be handled as outlined below unless otherwise directed by a State supplement approved by OGC which is necessary to comply with State law. For MFH, the removal and disposition of nonsecurity personal property will be handled in accordance with the tenant's lease or advice from OGC. When property is deemed to have no value, it is recommended that it be photographed for documentation before it is disposed of. The Agency official having custody of the property may request advice from the State Office staff as necessary. Actions to effect removal of items of value from inventory property shall be as follows:

§ 1955.62 (Con.)

(a) Notification to owner or lienholder. The servicing official will check the public records to see if there is a lien on any of the personal property.

(1) If there is a lien(s) of record, the servicing official will notify the lienholder(s) by certified mail, return receipt requested, that the personal property will be disposed of by the Agency unless it is removed from the premises within 7 days from the date of the letter.

(2) If there are no liens of record, or if a lienholder notified in accordance with paragraph (a)(1) of this section fails to remove the property within the time specified, the servicing official will notify the former borrower at the last known address by certified mail, return receipt requested, that the personal property remaining on the premises will be disposed of by the Agency unless it is removed within 7 days from the date of the letter. If no address can be determined, a copy of the letter should be posted on the front door of the property and documentation entered in the running record of the Agency file.

(b) Disposal of unclaimed personal property. If the property is not removed by the former borrower or a lienholder after notification as outlined in paragraphs (a)(1) and (a)(2) of this section, the servicing official shall list the items with clear description, estimated value, and indication of which are covered by a lien, if any, and submit the list to the State Director with a request for authorization to have the items removed and disposed of. Based on advice from OGC, the State Director will give authorization and provide instructions for removal and disposal of the personal property. If approved by OGC, the property may be disposed of as follows:

(1) If a reasonable amount can likely be realized by the Agency from sale of the personal property, it may be sold at public sale. Items under lien will be sold first and the proceeds up to the amount of the lien paid to the lienholder(s) less a pro rata share of the sale expenses. Proceeds from sale of items not under lien and proceeds in excess of the amount due a lienholder will be remitted according to RD Instruction 1951-B and applied in the following order:

(i) To the inventory account up to the amount of expenses incurred by the Government in connection with sale of the personal property (such as advertising and auctioneer, if used).

(ii) To an unsatisfied balance on the Agency loan account, if any.

(iii) To the borrower, if whereabouts are known.

(2) If personal property is not sold, a mover or hauler may be authorized to take the items for moving costs. Refer to RD Instruction 2024-A for guidance.

(c) Payment of costs. Upon payment of all expenses incurred by the Government in connection with the personal property, Rural Development will allow the former borrower or a lienholder access to the property to reclaim the personal property at any time prior to its disposal.

(d) Removal of abandoned motor vehicles from inventory property. Since State laws vary concerning disposal of abandoned motor vehicles, the State Director shall, with the advice of OGC, issue a State Supplement outlining the method to be followed which will comply with applicable State laws.

§ 1955.63 Suitability determination.

As soon as real property is acquired, a determination must be made as to whether or not the property can be used for program purposes. The suitability determination will be recorded in the running record of the case file.
(Revised 08-20-97, PN 280.)

(a) Determination. The Agency will classify property that secured loans or was acquired under the CONACT as "suitable property" or "surplus property" in accordance with the definitions found in § 1955.53. For other Agencies, this determination will be made by the State Director, or designee. A 5L ADPS "Acquired Property Maintenance," transaction must be entered into the Agency field office terminal to update the change in the property's classification. (Revised 09-10-03, PN 363.)

§ 1955.63 (Con.)

(b) Grouping and subdividing farm properties. To the maximum extent practicable, the Agency will maximize the opportunity for beginning farmers and ranchers to purchase inventory properties. Farm properties may be subdivided or grouped according to § 1955.140, as feasible, to carry out the objectives of the applicable loan program. Properties may also be subdivided to facilitate the granting or selling of a conservation easement or the fee title transfer of portions of a property for conservation purposes. The environmental effects of such actions will be considered pursuant to subpart G of part 1940 of this chapter. The State Executive Director, with prior approval of OGC, may issue a State supplement addressing any applicable State laws. Surveys required to divide tracts will be obtained by contract in accordance with FAR and charged as a non-recoverable cost. Subdivision of acquired property will be input into the Automated Discrepancy Processing System (ADPS) as an 8P, Acquired Property - Subdivision Transaction. (Revised 09-10-03, PN 363.)

§ 1955.63(b) (Con.)

property will be reported on Form RD 1955-3C, "Acquired Property - Subdivision," in accordance with the Forms Manual Insert (FMI).
(Revised 06-28-95, PN 247.)

(c) Housing property. Property which secured housing loans will be classified as "program" or "nonprogram (NP)." After determination of whether the property is suited for retention in the respective program, the repair policy outlined in § 1955.64(a) of this subpart will be followed. In determining whether a property is suited for retention in the program, items such as size, design, possible health and/or safety hazards and obsolescence due to functional, economic, or locational conditions must carefully be considered. Generally, program property will meet, or can be realistically repaired to meet, the standards for existing housing outlined in 7 CFR 3550, provided the property is typical of modest homes in the area. The cost of repairs will generally not be considered in determining suitability. Since houses, sites and locations vary widely throughout the country, discretion and sound judgment must be used in determining suitability. The majority of houses the RHS acquires will be suited for retention and classified as "program" property. In some instances, property will not be suited for retention in the program and will be classified as "nonprogram (NP)" property. Situations of this type include, but are not limited to:
(Revised 10-27-95, SPECIAL PN.)

(1) A dwelling which has been enlarged or improved to the point where it is clearly above-modest. (Revised 10-27-95, SPECIAL PN.)

(2) When a determination is made that the property should not have been financed originally.

(3) A dwelling brought into the program as an existing dwelling which met program standards at the time it was originally financed by RHS but which does not conform to current policies. This includes older and/or larger homes of a type which have proven to create excessive energy and/or maintenance costs to very-low and low-income borrowers.

(4) A dwelling which is obsolete due to location, design, construction or age.

(5) A dwelling which requires major redesign/renovation to be brought to program standards.

(d) Authority for determining suitability. (Revised 06-28-95,
PN 247.)

(1) County Supervisor. The County Supervisor will determine suitability of farm and SFH property with the advice of the District Director if the County Supervisor is uncertain of the proper classification for the property.

(2) District Director. The District Director will assist the County Supervisor in determining suitability of farm and SFH property as provided in this section.

(3) State Director. The State Director will determine suitability of all types of property other than farm property. With the recommendations of the District Director, the State Director will make determinations on MFH property.

§ 1955.64 Securing, maintaining, and repairing inventory property.

When property is acquired, the servicing official shall inspect the property and take the necessary steps to see that it is secured and maintained. "NO TRESPASSING," "FOR SALE," (with Equal Housing Opportunity logo and telephone number of the appropriate contact person) or other appropriate signs may be posted on the property at the discretion of the responsible official. The servicing official is responsible for initiating actions to assure that the value of the inventory property is preserved. If real property (exclusive of improvements) is unsafe, refer to § 1955.137(f) of Subpart C of this part for further guidance. Substantial improvement or repair of property located in a floodplain or mudslide hazard area is subject to the limitation outlined in exhibit C, paragraph 3b(1) and (2) of Subpart G of Part 1940 of this chapter, and § 1955.56 of this Subpart.
(Revised 08-20-97, PN 280.)

(a) Basic repair policy. After a determination of suitability is made, repairs will be accomplished in accordance with the following provisions. Properties that are listed or eligible for listing on the National Register of Historic Places, in whole or in part (see § 1955.137(c) of Subpart C of this part), will be repaired as necessary to protect their historic integrity after consultation with the State Historic Preservation Officer and the Advisory Council on Historic Preservation regarding any repairs. Also, if any property presents a health or safety hazard, except for SFH and MFH properties to be sold with "Decent, Safe and Sanitary" (DSS) clauses, necessary steps will be taken to remove the hazard, and if necessary, after seeking advice from appropriate agencies having related expertise or jurisdiction.
(Revised 08-20-97, PN 280.)

(1) SFH. (Revised 6-12-89, SPECIAL PN)

(i) Program property. Program property will be repaired, renovated, and/or improved as necessary to meet program standards for existing housing, to enhance buyer appeal, and make the maximum recovery on the Government's investment, with the objective being to sell the property at the earliest time possible. Attention should be given to the interior and exterior of the structure(s), landscaping, driveways, walks, and other site improvements which will enhance marketability. Exceptions to this policy are authorized only when a prospective program applicant has indicated a willingness to buy a specific property "as-is" and make needed repairs with his/her own resources or with subsequent loan made simultaneously with the credit sale. In areas where severe vandalism is prevalent, the State Director is authorized to waive the repair policy in specific locations when the County Supervisor requests the waiver based upon documentation to support the request. In these cases a subsequent loan for the cost of repairs may be made in conjunction with the credit sale. A "Neighborhood Watch" program or similar effort should be considered to reduce vandalism. (Added 6-12-89, SPECIAL PN)

(ii) Nonprogram (NP) property. NP property should be cleaned, free of trash (dwelling and lot), and made presentable to enhance marketability. Repairs will generally not be made unless they increase the "as-is" market value by at least the cost of repairs. NP property which does not meet the "Decent, Safe and Sanitary" (DSS) standards outlined in §1955.103 of Subpart C of Part 1955 of this chapter will be repaired to meet these standards only when the cost of the repairs will increase the "as-is" market value by at least the cost of repairs. However, any NP property which is listed or is eligible for listing on the National Register of Historic Places will be repaired to the extent necessary to protect and prevent deterioration of its historic integrity after consultation with the State Historic Preservation Officer and the Advisory Council on Historic Preservation. (Added 6-12-89, SPECIAL PN)

§ 1955.64(a) (Con.)

(2) MFH. MFH property should be evaluated to determine if repairs are necessary or if a prospective buyer may wish to rehabilitate the property after purchasing it in an "as is" condition. Property which does not meet the DSS standards outlined in § 1955.103(f) of Subpart C of this part is subject to the occupancy restrictions set forth in § 1955.116 of Subpart C of this part.

(3) Farm property. Except as provided in paragraph (a) of this section, only the farm service buildings and facilities typically essential for the type of farming in the area will be repaired, renovated, and/or improved as necessary to place the farm in marketable condition. Conservation of soil, water and forest resources will be considered and actions will be taken to correct severe problems upon advice of the Natural Resources Conservation Service (NRCS), through the development of conservation practices for the farm property. The county office will request that the SCS identify the location of any highly erodible land and recommend specific conservation practices to control erosion. The County Supervisor will carry out those conservation practices that are essential to preserve and protect the property and to place it in marketable condition. Any differences between FSA and NRCS regarding the need for a certain practice will be resolved in the manner indicated in § 1955.137(d)(2) of Subpart C of this Part. Recommendations will also be requested from the U.S. Fish and Wildlife Service regarding fish and wildlife conservation measures. See Exhibit A of RD Instruction 2000-LL for further information. (Revised 08-20-97, PN 280.)

(4) Property other than housing and farms. Each property will be evaluated individually to determine whether repairs should be made or the property offered for sale "as-is." The State Director will obtain advice from the appropriate division in the National Office as necessary in making these determinations.

(b) Authority. Program and contracting authority is contained in RD Instruction 2024-A.

§ 1955.65 Management of inventory and/or custodial real property.

(a) Authority.

(1) County Supervisor. The County Supervisor, with the assistance of the District Director and State Office program staff as necessary, will select the management method(s) used for property which secures (or secured) loans to individuals as defined in this subpart.

(2) State Director. The State Director will select the management method to be used for property which secures (or secured) loans to organizations as defined in this subpart. The State Director shall also provide guidance and assistance to County Supervisors and District Directors as necessary to insure that property under their jurisdiction is effectively managed.

(b) Management methods. Management methods and requirements will vary depending on such things as the number of properties involved, their density of location, and market conditions. Management tools which may be used effectively range from contracts to secure individual property, have the grass cut, or winterize a dwelling; a simple management contract to provide maintenance and other services on a group of properties (including but not limited to specification writing, inspection of repairs, and yard and directional signs and their installation), or manage an MFH project; blanket-purchase arrangement contracts to obtain services for more than one property; to a broad-scope management contract with a real estate broker or management agent which may include inspection and specification-writing services, making simple repairs, obtaining lessees, collecting rents, coordination with listing brokers in marketing the properties and effecting eviction of tenants when necessary. A contractor may handle evictions only where State laws permit the contractor to do so in his/her own name; a contractor may not pursue eviction in the name of the Government. Custodial property may be managed in the same manner as inventory property except that it may be leased only if it is habitable without repairs in excess of those authorized in § 1955.55(c) of this Subpart. Farm or organization property, such as rental housing and community facilities, may be operated under a management contract if the State Director has determined it is appropriate to have the property in operation. In any case, the primary consideration in selecting the method of management to be used is to protect the Government's interest. If property to be operated or leased under a management contract is located in an area identified by the Federal Insurance Administration as a special flood or mudslide hazard area, lessees or tenants must be notified to that effect in accordance with § 1955.66(e) of this Subpart. A management contract which covers property in such a hazard area may provide for the contractor to issue the required notices.

§ 1955.65 (Con.)

(c) Obtaining services for management and/or operation of properties.

Services for management, repair, and/or operation of properties will be obtained by contract in accordance with RD Instruction 2024-A (available in any Agency office).

(1) Management contracts. Management contracts are flexible instruments which may be tailored to meet the specific needs of almost any situation involving custodial or inventory property. This type of contract may be used to manage and maintain SFH properties, farms, and any other type of facility for which Agency is responsible. Organization-type properties will be secured, maintained, repaired, and operated if authorized, in accordance with a management plan prepared by the District Director and approved by the State Director if the amount of total debt does not exceed the State Director's loan approval authority, or by the Administrator. An audit of the borrower's records may be required if recent financial information is not available. For MFH projects, tenant occupancy and selection will be in accordance with the occupancy standards set forth in 7 CFR part 3560. subpart D. Tenants will be required to sign a written lease if one does not exist when the property is acquired or taken into custody. If a contract involves management of an MFH project with 5 or more units, or 5 or more single-family dwellings located in the same subdivision, the contractor must furnish Form HUD 935.2, "Affirmative Fair Housing Marketing Plan," subject to Agency's approval. Contracts for management of farm inventory property will be offered on a competitive bid basis, giving preference to persons who live in, and own and operate qualified small businesses in the area where the property is located in accordance with the provisions in RD Instruction 2024-Q (available in any Agency office). (Revised 02-24-05, SPECIAL PN.)

(2) Authority to enter into management contracts.

(i) The County Supervisor may enter into a management contract for basic services involving farms or not more than 25 single-family dwellings; however, the aggregate amount paid under a contract may not exceed the contracting authority limitation for County Supervisors outlined in RD Instruction 2024-A (available in any Agency office).

(ii) A District Director may enter into a management contract for basic maintenance and management services for an MFH project within the contracting authority outlined in RD Instruction 2024-A (available in any Agency office). The aggregate amount of any contract may not exceed that contracting authority

(iii) A CO in the State Office may enter into a management contract for basic services involving more than 25 single-family dwellings, a more complex management contract for SFH property, or an appropriate contract for management or operation of farm or organization-type property. The aggregate amount paid under a contract may not exceed the contracting authority limitation for State Office staff outlined in RD Instruction 2024-A (available in any Agency office).

(iv) If a proposed management contract will exceed the contracting authority for State Office staff within a short time, a request for contract action will be forwarded to the Administrator, to the attention of the appropriate program division.

(3) Specification of services. All management contracts will provide for termination by either the contractor or the Government upon 30 days written notice. Contracts providing for management of multiple properties will also provide for properties to be added or removed from the contractor's assignment whenever necessary, such as when a property is acquired or taken into custody during the period of a contract or when a property is sold from inventory. If a contractor prepares repair specifications, that contractor will be excluded from the solicitation for making the repairs to avoid a conflict of interest. If a management contract calls for specification writing services, a clause must be inserted in the contract prohibiting the preparer or his/her associates from doing the repair work. (Revised 04-20-05, PN 385.)

(4) Costs. Costs incurred with the management of property will be paid according to RD Instruction 2024-A (available in any Agency Office). For management of custodial property, costs will be charged to the borrower's account as recoverable; and for management of inventory property as nonrecoverable. Except for management fees, costs of managing MFH inventory property when tenants are still in residence will be paid to the extent possible with rental income. Management fees will be paid to the manager in accordance with RD Instruction 2024-A (available in any Agency Office). (Revised 08-13-92, SPECIAL PN.)

(d) Additional management services. Additional types of management services and supplies for which the State Director may authorize acquisition include: appraisal services (except for MFH), security services, newspaper copy preparation services, market data and comparable list acquisition, and tax data acquisition. If the State Director believes there is a need to acquire other services not in this

§ 1955.65(d) (Con.)

paragraph or authorized elsewhere in this subpart, the State Director should make a written request to the Assistant Administrator (appropriate program) for consideration and/or authorization.

§ 1955.66 Lease of real property.

When inventory real property, except for FSA and MFH properties, cannot be sold promptly, or when custodial property is subject to lengthy liquidation proceedings, leasing may be used as a management tool when it is clearly in the best interest of the Government. Leasing will not be used as a means of deferring other actions which should be taken, such as liquidation of loans in abandonment cases or repair and sale of inventory property. Leases will provide for cancellation by the lessee or the Agency on 30-day written notice unless Special Stipulations in an individual lease for good reason provide otherwise. If extensive repairs are needed to render a custodial property suitable for occupancy, this will preclude its being leased since repairs must be limited to those essential to prevent further deterioration of the security in accordance with § 1955.55(c). The requirements of Subpart G of Part 1940 will also be met for all leases. (Revised 08-20-97, PN 280.)

(a) Authority to approve lease of property.

(1) Custodial property. Custodial property may be leased pending foreclosure with the servicing official approving the lease on behalf of the Agency. (Revised 06-21-96, SPECIAL PN.)

(2) Inventory property. Inventory property may be leased under the following conditions. Except for farm property proposed for lease under the Homestead Protection Program, any property that is listed or eligible for listing on the National Register of Historic Places may be leased only after the servicing official and the State Historic Preservation Officer determine that the lease will adequately ensure the property's condition and historic character. (Revised 08-20-97, PN 280.)

(i) SFH. SFH inventory will generally not be leased; however, if unusual circumstances indicate leasing may be prudent, the County Supervisor is authorized to approve the lease. (Revised 06-12-89, SPECIAL PN.)

(ii) MFH. MFH projects will generally not be leased, although individual living units may be leased under a management agreement. After the property is placed under a management

contract, the contractor will be responsible for leasing the individual units in accordance with 7 CFR part 3560. In cases where an acceptable management contract cannot be obtained, the District Director may execute individual leases.
(Revised 02-24-05, SPECIAL PN.)

(iii) Farm property.

(A) Any property which secures an insured loan made under the CONACT and which contains a dwelling (whether located on or off the farm) that is possessed and occupied as a principal residence by a prior owner who was personally liable for a Farm Credit Programs loan must first be considered for Homestead Protection in accordance with Subpart S of Part 1951 of this chapter.
(Revised 08-20-97, PN 280.)

(B) Other than for Homestead Protection and except as provided in paragraph (c), the county official may only approve the lease of farm property to a beginning farmer or rancher who was selected through the random selection process to purchase the property but is not able to complete the purchase due to the lack of Agency funding.
(Revised 08-20-97, PN 280.)

(C) When the servicing official determines it is impossible to sell farm property after advertising the property for sale and negotiating with interested parties in accordance with § 1955.107 of Subpart C of this Part, farm property may be leased, upon the approval of the Administrator, on a case-by-case basis. This authority cannot be delegated. Any lease under this paragraph shall be for one year only, and not subject to renewal or extension. If the servicing official determines that the prospective lessee may be interested in purchasing the property, the lease may contain an option to purchase.
(Revised 08-20-97, PN 280.)

(D) When a lease with an option to purchase is signed, the lessee should be advised that FSA cannot make a commitment to finance the purchase of the property.
(Revised 08-20-97, PN 280.)

(E) Chattel property will not normally be leased unless it is attached to the real estate as a fixture or would normally pass with the land.

§ 1955.66(a)(2)(iii) (Con.)

(F) The property may not be used for any purpose that will contribute to excessive erosion of highly erodible land or to conversion of wetlands to produce an agricultural commodity, as further explained in Exhibit M of Subpart G of Part 1940 of this chapter. All prospective lessees of inventory property will be notified in writing of the presence of highly erodible land, converted wetlands and wetland and other important resources such as threatened or endangered species. This notification will include a copy of the completed and signed Form SCS-CPA-26, "Highly Erodible Land and Wetland Conservation Determination," which identifies whether the property contains wetland or converted wetlands or highly erodible land. The notification will also state that the lease will contain a restriction on the use of such property and that FSA's compliance requirements for wetlands, converted wetlands, and highly erodible land are contained in Exhibit M of Subpart G of Part 1940 of this chapter. If converted wetlands are present, the notification will also state that FSA will not lease converted wetlands for the purpose of producing an agricultural commodity, except as provided in § 1955.137 of Subpart C of this Part concerning prior converted cropland or frequently cropped wetland. Additionally, a copy of the completed and signed Form SCS-CPA-26 will be attached to the lease and the lease will contain a special stipulation as provided on the FMI to Form RD 1955-20, "Lease of Real Property," prohibiting the use of the property as specified above. (Revised 08-20-97, PN 280.)

(iv) Organization property other than MFH. Only the State Director, with the advice of appropriate National Office staff, may approve the lease of organization property other than MFH, such as community facilities, recreation projects, and businesses. Lease of utilities may require approval by State regulatory agencies. OGC assistance will be requested in preparation of the lease for property in this category.

(b) Selection of lessees for other than farm property. When the property to be leased is residential, a special effort will be made to reach prospective lessees who might not otherwise apply because of existing community patterns. A lessee will be selected considering the potential as a program applicant for purchase of the property (if property is suited for program purposes) and ability to preserve the property. The leasing official may require verification of income or a credit report (to be paid for by the prospective lessee) as he or she deems necessary to assure payment ability and creditworthiness of the prospective lessee.

(c) Selection of lessees for FSA property. FSA inventory property may only be leased to an eligible beginning farmer or rancher applicant who was selected to purchase the property through the random selection process in accordance with § 1955.107(a)(2)(ii) of Subpart C of this part. The applicant must have been able to demonstrate a feasible farm plan and Agency funds must have been unavailable at the time of the sale. Any applicant determined not to be a beginning farmer or rancher may request that the State Executive Director conduct an expedited review in accordance with § 1955.107(a)(2)(ii) of this Subpart.
(Revised 08-20-97, PN 280.)

(d) Property securing Farm Credit Programs loans located within an Indian Reservation. (Revised 08-20-97, PN 280.)

(1) State Executive Directors will contact the Bureau of Indian Affairs Agency supervisor to determine the boundaries of Indian Reservations and Indian allotments. A State supplement will be issued to identify the boundaries of such Indian Reservations and Indian allotment lands.

(2) Not later than 90 days after acquiring a property, FSA shall afford the Indian tribe having jurisdiction over the Indian reservation within which the inventory property is located an opportunity to purchase the property. The purchase shall be in accordance with the priority rights as follows:

- (i) To an Native American member of the Indian tribe that has jurisdiction over the reservation within which the real property is located;
- (ii) To an Indian corporate entity;
- (iii) To the Indian tribe.

§ 1955.66(d) (Con.)

(3) The Indian tribe having jurisdiction over the Indian reservation may revise the order of priority and may restrict the eligibility for purchase to:

(i) Persons who are members of such Indian tribe;

(ii) Indian corporate entities that are authorized by such Indian tribe to purchase lands within the boundaries of the reservation; or

(iii) The Indian tribe itself.

(4) If any individual, Indian corporate entity or Indian tribe covered in paragraphs (d)(1) and (d)(2) of this section wishes to purchase the property, the County official must determine the prospective purchaser has the financial resources and management skills and experience that is sufficient to assure a reasonable prospect that the terms of the purchase agreement can be fulfilled. Adverse decisions will be appealable.

(5) If the real property is not purchased by any individual, Indian corporate entity or Indian tribe pursuant to paragraphs (d)(1) and (d)(2) of this section and all appeals have concluded, the State Executive Director shall transfer the property to the Secretary of the Interior. If present on the property being transferred, important resources will be protected as outlined in §§ 1955.137 and 1955.139 of Subpart C of this Part.

(6) Properties within a reservation formerly owned by entities and non-tribal members will be treated as regular inventory that is not located on an Indian Reservation and disposed of pursuant to this Subpart and Subpart C of this Part

(e) Lease amount. Inventory property will be leased for an amount equal to that for which similar properties in the area are being leased or rented (market rent). In no case will inventory property be leased for a token amount.

(1) Farm property. To arrive at a market rent amount, the county official will make a survey of lease amounts of farms in the immediate area with similar soils, capabilities, and income potential. The income-producing capability of the property during the term of the lease must also be considered. This rental data will be maintained in an operational file as well as in the running records of case files for leased inventory properties. While cash rent is preferred, lease of a farm on a crop-share basis may be

approved if this is the customary method in the area. For crop-share leases, the lease amount and terms must be outlined in detail in the "Special Stipulations" section of the lease in accordance with the FMI for Form RD 1955-20. The lessee will in these cases market the crops, provide FSA with documented evidence of crop income, and pay the pro rata share of the income to FSA. The leasing official is responsible for seeing that crops are properly accounted for and for collecting the lease money.
(Revised 08-20-97, PN 280.)

(2) SFH property. The lease amount will be the market rent unless the lessee is a potential program applicant, in which case the lease amount may be set at an amount approximating the monthly payment if a loan were made (reflecting payment assistance, if any) calculated on the basis of the price of the house and income of the lessee, plus 1/12 of the estimated real estate taxes, property insurance, and maintenance which would be payable by a homeowner.
(Revised 10-27-95, SPECIAL PN.)

(3) Property other than farm or SFH. Any inventory property other than a farm or single-family dwelling will generally be leased for market rent for that type property in the area. However, such property may be leased for less than market rent with prior approval of the Administrator.

(f) Property containing wetlands or located in a floodplain or mudslide hazard area. Inventory property located in areas identified by the Federal Insurance Administration as special flood or mudslide hazard areas will not be leased or operated under a management contract without prior written notice of the hazard to the prospective lessee or tenant. If property is leased by FSA, the servicing official will provide the notice, and if property is leased under a management contract, the contractor must provide the notice in compliance with a provision to that effect included in the contract. The notice must be in writing, signed by the servicing official or the contractor, and delivered to the prospective lessee or tenant at least one day before the lease is signed. A copy of the notice will be attached to the original and each copy of the lease. Property containing floodplains and wetlands will be leased subject to the same use restrictions as contained in § 1955.137(a) (1) of Subpart C of this Part.
(Revised 6-12-89, SPECIAL PN.)

(g) Highly erodible land. If farm inventory property contains "highly erodible land," as determined by the NRCS, the lease must include conservation practices specified by the NRCS and approved by FSA as a condition for leasing. (Revised 11-03-93, SPECIAL PN.)

§ 1955.66 (Con.)

(h) Lease of FSA property with option to purchase.

A beginning farmer or rancher lessee will be given an option to purchase farm property. Terms of the option will be set forth as part of the lease as a special stipulation in accordance with the FMI for Form RD 1955-20. (Revised 08-20-97, PN 280.)

(1) The lease payments will not be applied toward the purchase price.

(2) The purchase price (option price) will be the advertised sales price as determined by an appraisal prepared in accordance with FSA Handbook 1-FLP. (Revised 04-19-00, PN 319.)

(3) For inventory properties leased to a beginning farmer or rancher applicant, the term of the lease shall be:

(i) A period not to exceed 18 months from the date that the applicant was selected to purchase the inventory farm, or

(ii) the date that direct, guaranteed, credit sale or other Agency funds become available for the beginning farmer or rancher to close the sale.

(4) Indian tribes or tribal corporations which utilize the Indian Land Acquisition program will be allowed to purchase the property for its market value less the contributory value of the buildings, in accordance with Subpart N of Part 1823 (RD Instruction 442.11).

§ 1955.66 (Con.)

(i) Costs. The costs of repairs to leased property will be paid by the Government. However, the Government will not pay costs of utilities or any other costs of operation of the property by the lessee. Repairs will be obtained pursuant to Subpart B of Part 1924 of this chapter. Expenditures on custodial property as limited in § 1955.55(c)(2) of this Subpart will be charged to the borrower's account as recoverable costs; and on inventory property, they will be charged to the inventory account as nonrecoverable costs. (Renumbered 08-20-97, PN 280.)

(j) Security deposit. A security deposit in at least the amount of one month's rent will be required from all lessees of SFH properties. The security deposit for farm property should be determined by considering only the improvements or facilities which might be subject to misuse or abuse during the term of the lease. For all other types of property, the leasing official may determine whether or not a security deposit will be required and the amount of the deposit with advice from the State Office staff if requested. Security deposits will be remitted according to RD Instruction 1951-B and held by the Finance Office until the leasing official determines to return or otherwise to dispose of the security deposit. The Finance Office Property Accounting Unit will be requested by memorandum to return the deposit to the servicing office for delivery to the lessee; or, if the deposit is to be retained by the Agency, to apply it to the borrower's account (for custodial property) or to the inventory account, as appropriate. (Renumbered 08-20-97, PN 280.)

For MFH projects, either the security deposit policy may be suspended or the deposits will be handled as follows:

(1) Form RD 1944-9, "Multiple Housing Certification and Payment Transmittal," prepared according to the FMI must be forwarded to the Finance Office for every tenant from whom a deposit is required. A notation will be entered under the tenant's name that it is a security deposit for inventory property, Advice No._____, formerly owned by_____.

(2) If security deposits are no longer to be required and there are outstanding deposits which should be refunded, requests will be handled as they would have been prior to acquisition of the property.

(k) Lease form. Form RD 1955-20, prepared according to the FMI, or other form approved by OGC, will be used by the Agency to lease property. The lease will be prepared, executed, and distributed according to the FMI depending on whether it is custodial or inventory property. On receipt of a lease of inventory property, the Finance Office will establish a lease account in the lessee's name. In servicing the lease account, a suspend code may be established or removed from a lease record by completion of Form RD 1955-3D, "Acquired property - Suspend Code," in accordance with the FMI.
(Renumbered 08-20-97, PN 280.)

(l) Lease income. Lease proceeds will be remitted according to RD Instruction 1951-B. (Renumbered 08-20-97, PN 280.)

(1) Custodial property. The proceeds from lease of custodial property will be applied to the borrower's account as an extra payment unless foreclosure proceedings require that such payments be held in suspense. OGC will be consulted as to the procedure to be followed in each State and instructions will be given in a State supplement.

(2) Inventory property. The proceeds from lease of inventory property will be applied to the lease account.

(m) Termination of lease of inventory property. When a lease is terminated, or when the property is sold before expiration of the term shown of the lease submitted to the Finance Office, the servicing official will notify the Finance Office of the termination and the effective date of termination according to the FMI for Form RD 1955-20. (Renumbered 08-20-97, PN 280.)

§ 1955.67 Payment of liens.

(a) If real estate was acquired subject to a lien, the servicing official may authorize payment of installments that may include escrow payments to the prior lienholder for taxes, if the property is taxable. Payment will be made according to RD Instruction 2024-A (available in any Agency Office). The payment will be charged to the inventory account as a recoverable cost. If it is later determined that continuing to make payments on prior liens is no longer in the best interest of the Government for reasons such as, but not limited to, declining property values or uninsured property losses, the State Director may: (Revised 08-05-98, PN 294.)

(1) Convey the property to the prior lienholder if the lienholder will agree to accept the conveyance in full satisfaction of the prior lien; or

(2) Discontinue payments to the lienholder, and allow the lien to be foreclosed.

(b) If the State Director determines that paying a lien in full would be in the best interest of the Government, he/she will obtain the advice of OGC with respect to the procedures for paying the lien in full and having the mortgage released or assigned to the Government. The County Supervisor or District Director will obtain from the lienholder a statement of the amount owed and request payment to the lienholder in accordance with RD Instruction 2024-A (available in any Agency Office) which will be charged to the inventory account as a nonrecoverable cost. (Revised 08-05-98 PN 294.)

§ 1955.68 Payment of taxes.

Property acquired by the Agency is subject to taxation by State and local political jurisdictions in the same manner and to the same extent as other property of the same kind, unless State law specifically exempts property owned by the Government from taxation. Where jurisdictions change their law or codes to begin taxing Government-owned property, only taxes accruing after the effective date of the change may be paid. A State supplement may be issued with the advice of OGC to cover individual State laws. The servicing official shall notify the appropriate taxing authority(ies) in writing when title to real estate is acquired by the Government and shall advise that claims for taxes, if applicable, during the Government's ownership should be billed to the Agency at the County Office or District Office address. When inventory property is taxable, payment will be as follows:

(a) Suitable or program property. When property is suited for program purposes, the payment of taxes will be paid in accordance with RD Instruction 2024-A (available in any Agency Office) charging them as recoverable costs to the inventory account. If property was acquired subject to a prior lien, the prior lienholder will be contacted before submitting a voucher to see if that lienholder will pay the taxes. (Revised 08-05-98, PN 294.)

(b) Surplus property. When inventory property acquired under provisions of the CONACT is classified as surplus, taxes will be paid as outlined in paragraph (a) of this section.

(c) Nonprogram (NP) housing property. When property is classified as NP and the value is limited to the extent that taxes which accrue before disposal may exceed the value of the property, payment of taxes will be deferred until the property is sold. If the taxing authority schedules a tax sale before the Agency can sell the property, the value will be weighed against the taxes and the decision made whether to pay the taxes and continue sales efforts or to let the property go for the delinquent taxes. The decision made should be that which is in the Government's best financial interest.

§ 1955.69 Insurance.

Insurance in force at the time property is acquired will not be cancelled; however, no additional premiums will be paid, except as follows:

(a) If organization-type property is operated by the Government after acquisition, workman's compensation coverage will be obtained. If the property is located in a flood-hazard area and operation of the property continues, flood insurance will be continued in force. Premiums will be paid in accordance with RD Instruction 2024-A, (available in any Agency Office) and charged to the inventory account as a recoverable cost. (Revised 08-05-98 PN 294.)

(b) If there is an outstanding claim at the time of acquisition, it will be handled in accordance with subpart A or B of part 1806 of this chapter (RD Instruction 426.1 or 426.2). If property was acquired subject to a prior lien, the servicing official shall advise the prior lienholder that the Government does not intend to carry insurance, except as provided in paragraph (a) of this section. If, however, the prior lienholders mortgage requires the borrower to carry insurance, the Agency may provide the required insurance, if necessary, to prevent foreclosure by the prior lienholder.

§ 1955.70 Inspection of property.

The servicing official shall inspect property as necessary to protect the Government's interest. Farm property will be inspected at least annually to determine if adequate measures are in effect to conserve the soil, maintain its fertility, and control erosion. Inspection will be made

in connection with travel for other purposes, wherever possible, and documented in the inventory file.

§1955.71 Vandalism or theft.

(a) Reporting. Willful damage to or theft of inventory or custodial property will be reported to local law enforcement officials by the servicing official. A written report will be sent to the State Director with a copy to the Regional Office of the USDA Office of Inspector General (OIG).

(b) Other actions. The servicing official will cooperate with local law enforcement officials to attempt to resolve the incident. This includes signing complaints and testifying at hearings or trials under the jurisdiction of the local law enforcement system. Civil actions and prosecution under Federal criminal statutes will be processed through OGC in coordination with OIG. The State Director, after consulting OGC as necessary, will provide advice and assistance to the servicing official.

(c) Repair of damage due to vandalism or theft. Repairs necessary because of vandalism or theft will be accomplished on inventory property in accordance with §1955.64 of this subpart. Repairs of damage to custodial property will be limited as outlined in §1955.55 (c) of this subpart and obtained as outlined in §1955.55 (d) of this subpart.

§1955.72 Utilization of inventory housing by Federal Emergency Management Agency (FEMA) or under a Memorandum of Understanding between the Agency and the Department of Health and Human Services (HHS) for transitional housing for the homeless. (Revised 6-12-89, SPECIAL PN.)

(a) FEMA. By a Memorandum of Understanding between the Agency and FEMA, inventory housing property not under lease or sales agreement may be made available to shelter victims in an area designated as a major disaster area by the President. See Exhibit A of this subpart. Authority is hereby delegated to the State Director to implement this Memorandum of Understanding; the State Director may redelegate this authority to County Supervisors or District Directors.

(b) HHS. By a Memorandum of Understanding between the Agency and HHS, inventory housing property not under lease or sales agreement may be made available by lease to public bodies and nonprofit organizations to provide transitional housing for the homeless. See Exhibit D of this subpart. Authority is hereby delegated to the State Director to implement this Memorandum of Understanding; and the State Director may redelegate this authority to County Supervisors

or District Directors. Copies of all executed leases and/or questions regarding this program should be referred by State Offices to the Single Family Housing Servicing and Property Management (SFH/SPM) Division in the National Office.

§§1955.73 - 1955.79 [Reserved]

§1955.80 Management of inventory chattel property.

Inventory chattel property will be disposed of as soon after acquisition as possible. Holding of chattel property for more than 60 days must be approved in writing by the State Director. Normally, chattel property will not be leased, except as provided in paragraph (c) of this section.

(a) Care of inventory chattel property. When the servicing official determines that inventory chattel property should be cared for by contract, the necessary services will be obtained in accordance with the provisions of this section and RD Instruction 2024-A. (Revised 6-12-89, SPECIAL PN.)

(b) Contracting for services. Services such as transportation, care, storage, and harvest of crops will be obtained in accordance with RD Instruction 2024-A. (Revised 6-12-89, SPECIAL PN.)

(c) Lease of chattel property. Chattels which are essential to the operation of a farm, such as bulk milk tanks, pumps, and center-pivot sprinkler systems may be leased along with the real property. The lease amount will be based on documented comparable rental rates and the amount will be specified in the lease agreement. The lessee will be responsible for maintenance and repairs during the lease term. Repair costs will be limited to those essential under the terms of the lease, to place the equipment in operational condition. When a lessee cannot or will not make needed repairs, the servicing official will contact the State Director for guidance on economic feasibility. (Revised 11-03-93, SPECIAL PN.)

(d) Documenting and reporting inventory transactions. The servicing official is responsible for documenting and reporting inventory chattel transactions.

(1) Losses and increases. Increases in inventory resulting from the birth of livestock will be noted on the original list of acquired chattel property in the inventory file, as well as any losses. These entries will be dated.

(2) Sales. All sales of chattel property will be reported on either Form RD 1955-50A, "Advice of Inventory Property Sold - Credit Sale," or Form RD 1955-50B, "Advice of Inventory

§1955.80 (d) (2) (Con.)

Property Sold - Cash Sale/Transfer - Acquired Property," in accordance with the respective FMI and subpart C of this part and recorded on the original list of acquired chattel property in the inventory file. (Revised 06-28-95, PN 247.)

§1955.81 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart, or address any omission of this subpart which is not inconsistent with the authorizing statute or other applicable law, if the Administrator determines that the Government's interest would be adversely affected or the immediate health and/or safety of tenants or the community are endangered if there is no adverse effect on the Government's interest. The Administrator will exercise this authority upon request of the State Director with the recommendation of the appropriate program Assistant Administrator or upon a request initiated by the appropriate program Assistant Administrator. Requests for exceptions must be made in writing and supported with documentation to explain the adverse effect, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

§1955.82 State supplements.

State supplements will be prepared with the assistance of OGC as necessary to comply with State laws or only as specifically authorized in this regulation to provide guidance to Agency officials. State supplements applicable to MFH must have prior approval of the National Office; others may receive post approval. Requests for approval for those affecting MFH must include complete justification, citations of State law, and an opinion from OGC.

§§1955.83 - 1955.99 [Reserved]

§1955.100 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0575-0110.

EXHIBITS TO SUBPART B

All exhibits are available in any Agency Office. Exhibit B is also published in the Code of Federal Regulations.

Exhibit A - Memorandum of Understanding Between the Federal Emergency Management Agency and the Farmers Home Administration.

Exhibit B - Notification of Tribe of Availability of Farm Property for Lease or Purchase.

Exhibit C - Cooperative Agreement (Example).

Exhibit D - Fact Sheet - The Federal Interagency Task Force on Food and Shelter for the Homeless

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(Revision 2)

(10-14-88) SPECIAL PN

Exhibit A in PDF ONLY.

Attachment to 1 & 2 to Exhibit A in PDF ONLY.

NOTIFICATION OF TRIBE OF AVAILABILITY OF
FARM PROPERTY FOR PURCHASE
(To Be Used By FSA to Notify Tribe)

FROM: County official

TO: (Name of Tribe and address)

SUBJECT: Availability of Farm Property for Purchase
[To be Used within 90 days of acquisition]

Recently the Farm Service Agency (FSA) acquired title to acres of farm real property located within the boundaries of your Reservation. The previous owner of this property was _____. The property is available for purchase by persons who are members of your tribe, an Indian Corporate entity, or the tribe itself. Our regulations provide for those three distinct priority categories which may be eligible; however, you may revise the order of the priority categories and may restrict the eligibility to one or any combination of categories. Following is a more detailed description of these categories:

1. Persons who are members of your Tribe. Individuals so selected must be able to meet the eligibility criteria for the purchase of Government inventory property and be able to carry on a family farming operation. Those persons not eligible for FSA's regular programs may also purchase this property as a Non-Program loan on ineligible rates and terms.
2. Indian corporate entities. You may restrict eligible Indian corporate entities to those authorized by your Tribe to purchase lands within the boundaries of your Reservation. These entities also must meet the basic eligibility criteria established for the type of assistance granted.
3. The Tribe itself is also considered eligible to exercise their right to purchase the property. If available, Indian Land Acquisition funds may be used or the property financed as a Non-Program loan on ineligible rates and terms.

We are requesting that you notify the local FSA County Office of your selection or intentions within 45 days of receipt of this letter, regarding the purchase of this real estate. If you have questions regarding eligibility for any of the groups mentioned above, please contact our office. If the Tribe wishes to purchase the property, but is unable to do so at this time, contact with the FSA County Office should be made.

Sincerely,

County official

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COOPERATIVE AGREEMENT (EXAMPLE)
United States Department of Agriculture
Farmers Home Administration
Agency Agreement No. 1)_____

THIS AGREEMENT, made this _____ day of _____, 19____, by and between United States Department of Agriculture, (Agency name) _____, herein after called "Agency", and 2)_____ called 3)_____.

WITNESSETH THAT:

WHEREAS, Agency has the authority pursuant to sections 510(e) and 517(i) of the Housing Act of 1949* to expend funds to protect the Government's interest in acquired property and to protect the Government's security interest for loans made out of the Rural Housing Insurance Fund, and

WHEREAS, In 4)_____ located in _____ County, _____, Agency has acquired title to approximately 5)_____ and in order to protect this property, it is necessary to 6)_____

_____,
and

WHEREAS, 3)_____ has rights of entry to the streets and easements within 4)_____ and has the authority to construct, alter and repair these streets and easements, and 3)_____ is willing to cooperate with Agency in the mutual goal of 7)_____
_____,
to provide housing for low- and moderate-income families;

NOW THEREFORE, in consideration of the premises and of the several promises to be faithfully performed by the parties hereto as set forth and for the mutual benefit of restoring 4)_____ as a viable community, Agency and 3)_____ agree as follows:

A. It is agreed that the following described work (the "work" herein), being 8)_____

is to be constructed by publicly advertised contract at an estimated cost of \$_____.
_____.

*Modification required for programs not covered by the Housing Act.

Agency Agreement No. (1)
Page 2 of 5

B. In carrying out this agreement, 3) shall use their own management procedures which apply applicable state and local laws and regulations, provided that procurements for Federal Assistance Programs conform to the standards set forth in Office of Management and Budget Circular A-87 and applicable Federal law.

Furthermore, 3) will, at no expense to Agency, for that work for which Agency agrees to pay:

1. Draft plans, specifications and drawings as will be necessary for the contemplated work which shall be subject to Agency approval.

2. Appoint a Contracting Officer and authorized representative who shall have authority to act for the Contracting Officer listing their duties, responsibilities and authority, and furnish such information in writing to Agency.

3. Provide necessary facilities, technical and clerical personnel and legal counsel for arranging for and carrying out the installation of the works of improvement described in Paragraph A.

4. Issue an invitation for bids which shall contain requirements including drawings and specifications and general provisions.

5. Receive, protect and open bids. Determine the lowest qualified bidder and with written concurrence from Agency, award contract.

6. Secure written concurrence of Agency before approving performance and payment bonds.

7. Secure written concurrence of Agency before issuing notice to proceed.

8. Secure written concurrence of Agency before giving consent for the contractor to assign the contract or assign any monies due or to become under the contract.

9. Secure written concurrence of Agency before waiving the requirement for any material certification.

10. Secure written concurrence of Agency before modifying the contract or before issuing orders to the contractor for suspension or resumption of work for extensions of contract time.

Agency Agreement No. (1)
Page 3 of 5

11. Promptly forward to Agency all 3) approved invoices submitted for payment as governed by this agreement.
12. Dispose of all claims resulting from the contract; secure prior written concurrence of Agency when Agency funds are involved.
13. Take reasonable and necessary action to dispose of all contractual and administrative issues arising out of the contract awarded by this agreement. This includes but is not limited to disputes, claims, protests of awards and legal actions. Agency will advise and consult with 3) on any such matters in which Agency could have financial interest.
14. Hold and save Agency free from any and all claims or causes of actions whatsoever resulting from the obligations undertaken by 3) under this agreement.
15. Secure written concurrence of Agency before terminating the construction contractor's right to proceed and declaring the contractor in default.
16. Take necessary legal action including bringing suit to collect from the contractor and any monies due in connection with the contract or upon request of Agency. Upon request of Agency, assign and transfer to Agency and any or all claims, demands and causes of action of every kind whatsoever which the County has against the contractor or his sureties.
17. Arrange for and conduct final inspection of completed works of improvement to determine whether all work has been performed in accordance with contractual requirements. Secure written concurrence of Agency prior to notifying the construction contractor of the acceptance of the job.
18. On completion acceptance of all work when provided by the terms of the contract obtain a written release from the contractor of all claims against 3) arising by virtue of the contract.
19. Retain all records dealing with the award and administration of the contract for 3 years of the date of 3) submission of the final request for payment from Agency or until final litigation of claims or audit findings have been resolved whichever is longer. Make such records available to the Comptroller General of the United States or duty authorized representatives of the Comptroller General and accredited representatives of the Department of Agriculture.

Agency Agreement No. (1)
Page 4 of 5

20. Comply with Federal Executive Order 11246 which is made a part of this agreement by reference; comply with the non-discrimination provision of the Equal Employment Opportunity clause.

C. Agency will, upon request of 3)_____;

1. Provide the direct cost of construction of work as described. The cost of this work, excluding the related cost of 9)_____

_____ is not to exceed \$_____, without written amendment to this a agreement.

2. Provide authorization assistance such as estimates of contract costs, length of contract period, results of tests and studies, site investigation, design layout, drawings and specifications.

3. Counsel with 3)_____ in preparing the invitation for bids and awarding and administering the contract.

4. Provide the service of a Government representative.

5. Disburse funds covering the items described in paragraph C 1., within 30 days of receipt of invoices as provided by paragraph B 11., by forwarding a check made payable to 3)_____ for their disbursement to the appropriate payees.

D. It is mutually agreed that:

1. This agreement shall be governed by Office of Management and Budget Circular A-87 (46 Fed. Reg. 9584, January 28, 1981).

2. This agreement shall be null and void 180 calendar days after the date 3)_____ has executed this agreement in the event that a construction contract(s) has (have) not been awarded.

3. The contract for construction described in Section A will not be awarded to a firm in which any official of 3)_____ or any member of such official's immediate family has a direct or indirect interest in the profits or contracts of such firms. Agency may terminate this agreement in whole or in part when it is determined by Agency that 3)_____ has failed to comply with the conditions of this agreement. Agency shall promptly notify 3)_____ in writing of the determination and reasons for termination together with the effective date.

Agency Agreement No. (1)
Page 5 or 5

4. This agreement may be temporarily suspended by Agency if it determines the corrective action by 3) is needed to meet the provisions of this agreement.

5. Agency may make adjustments in the estimated cost to 3) as set forth in A for the work. Such adjustments may increase or decrease the amount of estimated funds which are related to differences between such estimated cost and the amount of the awarded contract or to changes, differing site conditions, quantity variations, or other actions taken under the provisions of the contract. No adjustment shall reduce funds below the amount required to carry out the contract, however, Agency shall retain the right to refuse to approve the award of the contract should price exceed estimates.

6. In the event of default, any excess cost collected from the defaulting contractor, or his surety, will be utilized for the completion of this project.

E. 3) will upon the completion of the herein described work immediately, in good faith, accept the roads and streets, utility systems, or other public areas or facilities of 4) into the Highway System, Sewer System or other appropriate acquisition and maintenance entity of 3).

IN WITNESS WHEREOF the authorized representation of the parties hereto have affixed their hands and seals, the day and date first above.

U.S. Department of Agriculture
Rural Development

By: _____ (SEAL) By: _____ Name

Name _____ Title

Title _____
Contracting Officer

Insertion Guidance for blank spaces:

- 1) Agency contract number.
- 2) Full legal name of State or local government or agency.
- 3) Short name or initials of 2).
- 4) Name of subdivision or area.
- 5) Number and type of property.
- 6) General description of work.
- 7) Enter mutual purpose, such as, "providing sanitary sewage facilities to residents in compliance with State Health Department letter of October 31, 1983."
- 8) Describe each element of work, or reference and attach specifications.
- 9) Enter any work, materials, specification drafting, etc., which is to be contributed by 3).

FACT SHEET

THE FEDERAL INTERAGENCY TASK FORCE ON FOOD AND SHELTER FOR THE HOMELESS

In April 1984, a Task Force on Food and Shelter for the Homeless was established under the President's Council on Private Sector Initiatives. This Task Force, which includes representation from several Government Agencies including Rural Development, is responsible for developing and examining Federal resources such as Government inventory properties which may be utilized by the homeless. A memorandum of Understanding was established between the Department of Agriculture and the Department of Health and Human Services to make available vacant single family houses, by lease, to public bodies and nonprofit organizations for transitional housing for the homeless. In lieu of cash rent, the entity is required to maintain the property, pay real estate taxes and maintain property insurance.

Rural Development is committed to work with community based organizations in this regard to the extent practicable.

General Guidelines

1. Only Nonprogram (NP) Rural Development inventory properties are available for lease. Program and NP properties may be purchased by public bodies and nonprofit, and will be sold in accordance with the applicable sections of 7 CFR Part 1955, Subpart C (RD Instruction 1955-C).

2. Leases of NP properties will be for a period of up to 10 years. A 10 year lease may be necessary for the public body or nonprofit organization to obtain transitional housing funds from the Department of Housing and Urban Development (HUD).

Rural Development responsibilities

1. Upon request from a public body or nonprofit organization, Rural Development will provide a list of all inventory properties available for sale. The list will clearly identify which properties are classified as "program" and "NP." The list will be provided regardless of whether the properties are listed for sale with real estate brokers.

2. If a public body or nonprofit organization approaches Rural Development to lease a specific property, upon written notification of intent to lease, Rural Development will withdraw the property from sale for a period not to exceed 30 days to provide such entity with the opportunity to execute a formal lease. Rural Development will make a determination as to repairs and/or renovations necessary for the property to meet "Decent, Safe and Sanitary" (DSS) standards except for the thermal performance standards. Repairs/renovations will be limited to those necessary to remove health and safety hazards and provide adequate, safe and operable heating, plumbing, electrical, water and waste disposal systems. Cosmetic repairs such as painting,

landscaping, floor covering, etc., will not be considered unless they present health or safety hazard. If Rural Development determines the proposed repairs/renovations are reasonable in cost, Rural Development will contract to have said work performed upon execution of a formal lease. If repairs/renovations costs are excessive the public body or nonprofit organization will be asked to select another property for lease. If no such properties are available, and none are expected in the foreseeable future, the State Office will obtain further guidance from the Single Family Housing Servicing and Property Management (SFH/SPM) Division in the National Office.

3. Rural Development will inspect the property after the lease is executed to ensure the property is being maintained and used for its intended purposes. Inspections will be made at least yearly.

Public Body or Nonprofit Organization Responsibilities

1. Contact Rural Development when interested in leasing or purchasing Rural Development inventory property to provide transitional housing for the homeless.

2. When leasing is contemplated, provide Rural Development with documentation of the need for this type housing in the community and planned use. Documentation should include verification of the need for the type housing, financial statements verifying the entity's ability to make cosmetic repairs, if needed, maintain the property, pay utilities, real estate taxes, insurance, etc., proposed use of the property, sample lease or occupancy agreement for potential occupants, nondiscrimination policy, etc. The public body or nonprofit organization should provide all necessary documentation to Rural Development to assure success of the project.

3. Use any property in a prudent manner for its intended purpose. Maintain the property in good condition, ensuring the exterior and lot are maintained consistent with other properties in the area. Comply with all State and local laws, ordinances, etc, regarding use of residential property. Maintain adequate records relating to the use of the property. Allow Rural Development to inspect the property at reasonable times and review records to ensure the property is being utilized for its intended use.

4. When the need for such property no longer exists, advise Rural Development of intent to terminate the lease. Return the property in the same or better condition than when the lease was executed.

Attachment 1 to Exhibit D in PDF ONLY.

LEASE OF SINGLE FAMILY DWELLING

THIS LEASE is made and entered into this _____ day of _____, 19____, by and between the United States of America acting through Rural Development (hereinafter referred to as "LESSOR") and _____ (hereinafter referred to as "LESSEE").

RECITALS:

UNDER PROVISIONS OF the Housing Act of 1949, as amended, and in keeping with agreements with the Federal Interagency Task Force on Food and Shelter for the Homeless to provide transitional housing for the homeless in rural areas, AND, in consideration of the covenants and agreements herein contained to be done, kept and performed, the parties hereto agree as follows:

1. Premises. LESSOR hereby leases the PREMISES, known as _____

City of _____ County of _____, State of _____, to LESSEE and LESSEE hereby leases the PREMISES from LESSOR for the term and upon the covenants and conditions set forth herein.

2. Term. The term of this lease shall be for a period of _____ () year(s) commencing on the _____ day of _____, 19____, and ending on the last calendar year of _____, 19____, unless terminated under any applicable provisions or this Lease. This lease may be extended on a month-to-month basis after the termination date of this lease with prior written consent of the LESSOR and LESSEE.

3. Payments. In consideration of ONE DOLLAR, in hand paid at the time of execution of this lease, and the following requirements to be performed by LESSEE, LESSOR agrees it will have received adequate compensation from LESSEE, and LESSEE agrees to the following:

a. LESSEE shall pay LESSOR the pro-rated portion of taxes and assessments levied on the PREMISES during the term of this lease and any renewed term. Payment shall be made not later than 1 month before the due date of such taxes.

b. Within forty-five (45) days after execution of this lease, or other reasonable time period mutually agreed to in writing between the parties herein, the LESSEE, at the LESSEE's sole expense, shall make any further repairs, with prior approval of the LESSOR, as LESSEE determines necessary to make the property habitable.

c. LESSEE, at its sole expense, shall ensure the PREMISES are maintained, repaired, and kept in a clean sanitary condition during the term of this lease.

d. LESSEE shall be responsible for all utility costs incurred on the PREMISES during the term of this Lease.

4. Use. The LESSEE shall utilize the premises only for the purpose of providing transitional housing for homeless persons and will not charge such persons a rental or occupancy charge greater than the costs incurred by LESSEE in compliance with the provisions of paragraph 3, plus a reasonable amount for administrative costs.

5. Hold Harmless. The LESSEE shall indemnify and save harmless the LESSOR, its officers, agents, servants and employees from, all liability under the Federal Tort Claims Act (62 Stat. 869, 982; 28 U.S.C. Sec. 2071, 2680) or otherwise, for death or injury to all persons, or loss or damage to the property of all persons resulting from use of the premises by the LESSEE, its sublessees or licensees. Further, LESSEE will save the LESSOR harmless from all fines, penalties, and costs for violation or noncompliance with any of said laws, requirements, or regulations, and from all liability arising out of any such violation or noncompliance.

6. Damage Or Destruction. In the event any damage or destruction to the property shall be caused by its acts or neglect of its sublessees or licensees, the LESSEE shall forthwith repair such damage at its own expense, and should the LESSEE fail or refuse to make such repairs within a reasonable time after the occurrence of such damage, the LESSOR may at Lessor's option terminate this Lease, make such repairs and charge the cost thereof to the LESSEE, and the LESSEE, shall thereupon reimburse the LESSOR for the total cost of all damages so caused. In the event LESSEE insures the PREMISES against loss by fire and other hazards, LESSOR shall be named as a co-beneficiary. Further, in the event that the PREMISES are damaged or destroyed through no act nor neglect of LESSEE its sublessees and licensees and are rendered untenable, this Lease shall be terminated upon receipt of written notice of either party to the other.

7. Delivery Of Possession. At the end of the term of this Lease, LESSEE shall surrender said premises vacant to the LESSOR and in a habitable condition as defined in paragraph 3. b. except if the lessor so directs it will be boarded up and secured. No alteration, addition, or improvements shall be made in or to the premises without the consent of the LESSOR in writing, except for maintenance items, and all additions and improvements made by the LESSEE shall belong to the LESSOR. All goods and chattels placed or stored in or about the premises are at the risk of the LESSEE.

8. LESSOR'S Remedies. The LESSEE further agrees that if it should fail to comply with any or all provisions of this agreement, then in any of said cases, it shall be lawful for the LESSOR, at its election or option, to re-enter and take possession, the LESSEE hereby

expressly waiving any and all notices to vacate said premises, and thereupon this lease shall absolutely terminate; however, the failure of the LESSOR to insist upon the strict performance of the terms, covenants, agreements and conditions herein contained, or any of them, shall not constitute or be construed as a waiver or relinquishment of the LESSOR'S right thereafter to enforce any such term, covenant, agreement, or condition, but the same shall continue in full Force and effect.

9. No Member Of Congress To Benefit. No member of, or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this lease or to any benefit that may arise therefrom.

10. Warranty Against Use Of Agents. The LESSEE warrants that it has not employed any person to solicit or secure this lease upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of this warranty shall give the LESSOR the right to annul this lease or in its discretion to recover from the LESSEE the amount of such commission, percentage, brokerage or contingent fee in addition to the consideration herein set forth.

11. Nondiscrimination. The LESSEE agrees not to discriminate against any employee or applicant for employment, or against any individual seeking housing, because of race, color, religion, national origin, sex, marital status, handicap, or age.

THIS LEASE contains the entire agreement between the parties hereto, and neither party is bound by any representations or agreements of any kind except as herein contained.

_____, LESSEE RURAL DEVELOPMENT, LESSOR

By: _____ By: _____
(Typed Name) (Title) (Typed Name) State Director

(Address) (Address)

Telephone: () _____ Telephone: () _____